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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/586,381   | 06/02/2000  | David E. Green       | 2130                | 7037             |
| 25280  | 7590        | 08/09/2006           | EXAMINER            |                  |
| MILLIKEN & COMPANY<br>PO BOX 1926<br>SPARTANBURG, SC 29303 |             |                      | WACHTEL, ALEXIS A   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1764                |                  |

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/586,381

Applicant(s)

GREEN ET AL.

Examiner

Alexis Wachtel

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Detailed Action***

***Response to Amendment***

1. Applicant's amendment and accompanying Remarks filed have been entered and carefully considered.

The amendment filed 7-11-06 is sufficient to overcome the obviousness rejections of claims 32 and 42. However, the new rejection provides a new basis of rejection of claims 32 and 42 as shown below. In addition, the amendment is insufficient to overcome the rejection of claims 29-31,33-41,43-48.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 29-31,33-41,43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,981,063 to Yokozeki et al in view of US 6,149,927 to Ghosh as set forth in the previous office action. Arguments are addressed below.
4. Claims 32 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5981063 to Yokozeki et al in view of US 6149927 to Ghosh and US 5849311 to Sawan et al.

With respect to claims 32 and 42, while Yokozeki et al and Ghosh as set forth in the previous office action teaches the use of fibers as a substrate, no disclosure is provided to teach the use of a film substrate, Sawan et al is directed to biocidal coatings

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(Abstract) and teaches that a free standing antimicrobial film may be formed (Col 5, lines 36-41). Such a film can be ground down into a biocidal powder useful in creams (Col 5, lines 57-67; Col 6, lines 1-7). Since the relied on prior art teaches the use of a fiber substrate as the end carrier of a biocidal material, sufficient conceptual guidance would have been provided to the skilled practitioner to use a film substrate as a material on which a biocidal material may be coated. One of ordinary skill would have been motivated by the desire to make a biocidal film that can be ground down to make a biocidal powder useful in creams.

### ***Response to Arguments***

5. Applicant argues that the rejection of claims 29-31,33-41,43-48 lacks a showing of prima facie obviousness because the prior art fails to teach the problem or the source of the problem solved by the claimed invention. However, as the examiner previously pointed out, the prior art of record is not required to solve the same problem as Applicant. Moreover, Yokozeki et al is concerned with biocidal applications (Abstract). Ghosh is also directed to biocidal compositions, therefore the relied on art appears to be concerned with biocidal articles of manufacture as the Applicant is.

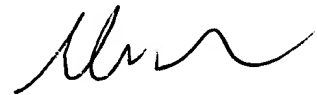
Applicant additionally argues that there is no motivation to combine Yokozeki et al and Ghosh. Yokozeki et al disclose the use of a non-specific binder. However, Since Yokozeki et al lacks disclosure to the claimed binder, it would have been necessary and thus obvious for one of ordinary skill in the art practicing the invention of disclosed by Yokozeki et al to look to the prior art as exemplified by Ghosh to provide the details of the claimed binder. Therefore, Applicant's arguments are not found to be persuasive.

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Applicant argues that Yokozeki et al and Ghosh do not teach the finish claimed by Applicant. However, the relied on prior art combination is seen to be properly combined and the disclosure of both references renders the claimed finish inherent if not obvious to the resulting article.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Wachtel whose telephone number is 571-272-1455. The examiner can normally be reached on 10:30am to 6:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Glenn Caldarola, can be reached at (571)-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Glenn Caldarola  
Supervisory Patent Examiner  
Technology Center 1700